

No. 5:22-CT-3187-M

Defendants.<sup>1</sup>

ORDER

Case 5:22-ct-03187-M Document 29 Filed 08/21/23 Page 1 of 2

The court finds good cause exists to deem defendant Hernandez's answer timely filed. See Fed. R. Civ. P. 6(a) & 12(a). The court further finds plaintiff is not prejudiced by such action. Therefore, plaintiff's motion for entry of default is denied as moot. See Fed. R. Civ. P. 55(a).

The court now considers plaintiff's motion to appoint counsel. No right to counsel exists in civil cases absent "exceptional circumstances." Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975). The presence of "exceptional circumstances" depends upon "the type and complexity of the case, and the abilities of the individuals bringing it." Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1984), abrogated on other grounds by Mallard v. U.S. Dist. Court for the S. Dist. Of Iowa, 490 U.S. 296 (1989) (citation omitted); see also Gordon v. Leeke, 574 F.2d 1147, 1153 (4th Cir. 1978) ("If it is apparent . . . that a pro se litigant has a colorable claim but lacks capacity to present it, the district court should appoint counsel to assist him."). Plaintiff has failed to demonstrate that this case is one in which exceptional circumstances merit appointment of counsel. Further, plaintiff's filings demonstrate his ability to proceed pro se. Accordingly, the court denies plaintiff's motions to appoint counsel.

Accordingly, plaintiff's motion to appoint counsel (D.E. 28) is DENIED, and his motion for entry of default (D.E. 24) is DENIED AS MOOT. Defendant's request to deem his answer timely filed (D.E. 26) is GRANTED.

SO ORDERED, this 21<sup>st</sup> day of August, 2023.



RICHARD E. MYERS II  
Chief United States District Judge